

### REMARKS

This paper is filed in response to the Office Action mailed 18<sup>th</sup> January 2008. Claims 1, 3- 19 and 21 were pending in the application of which claims 4, 6, 7, 9, 12 and 13 were withdrawn from consideration. No claims have been amended or canceled and the present claims are merely a resubmission of the claims of 19<sup>th</sup> October 2007 including the corrected identifier. Therefore, claims 1, 3 to 19 and 21 are now pending in the application and are resubmitted for consideration.

Rejection of Claims 1- 3, 5, 8, 10, 14, 17, 18, 19 and 21:

Claims 1, 3, 5, 8, 10, 14, 17, 18, 19 and 21 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,207,295 issued to Latshaw.

In the official action dated 7<sup>th</sup> January 2008 the Examiner considered the angle 28 of Latshaw to be part of the brake unit and therefore also part of the rail vehicle. The Examiner further considered that since the casting 74 contacts this portion of the vehicle it therefore fulfils the conditions of the claim.

Substance of interview dated 21<sup>st</sup> April 2008:

The Examiner, Ms Burch, is thanked for her helpful and co-operative attitude in understanding the invention. During the interview it was discussed how the present claim is distinguished over Latshaw. In particular, it was pointed out that the invention as described in the present application allows a construction without cross-members between brake units on either side of the vehicle. It was noted that the definition of the rail vehicle in Latshaw to also include the cross-members including angle 28 was inconsistent with the wording of the present claims.

According to present claim 1, the guide assembly must guide the magnet in a substantially vertical plane while allowing limited lateral movement. There must also be a rigidly connected extension arm which contacts the vehicle at a distance from the magnet. In Latshaw, there is no lateral movement possible between the magnet and the angle 28 due to the fact that both elements are joined together at pivot point 72. It was explained that including the angle 28 as part of the vehicle for the purpose of contact but not for the purpose of the lateral movement was inconsistent. It was also suggested that as a result of this

inconsistency, the device of Latshaw could not achieve a significant advantage of the present invention i.e. the absence of cross-members.

Withdrawal of Finality of Rejection:

On the basis of the above arguments, the device as presently claimed is believed to be distinct over Latshaw. Applicant respectfully requests withdrawal of the rejection of claim 1 under 35 U.S.C. § 102(b).

Claims 19 and 21 have been amended on the basis of the same features as claim 1. Furthermore, claims 3, 5, 8, 10, 11 and 14 to 18 are dependent upon claim 1 and include all of the features of that claim. Allowance of these claims is also requested.

For this reason, the Examiner is respectfully requested to withdraw the finality of the above rejection and proceed to allowance of the presently pending claims.

Rejoinder of Withdrawn Claims:

Claims 4, 6, 7, 9, 12 and 13 were withdrawn from consideration as being drawn to an unelected species. Since these claims are wholly dependent upon claim 1 and include all of the limitation of an allowable claim, rejoinder of claims 4, 6, 7, 9, 12 and 13 is thus also believed to be appropriate in the circumstance.

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Should issue of a final rejection be considered, the Examiner is respectfully requested to contact the undersigned by email to [owend@howrey.com](mailto:owend@howrey.com) in order to schedule a telephone interview. This request may be considered as specific authorization for use of electronic means to contact Applicant's representative. It is understood that any such communication may be placed on the public record.

Any extension of time that may be deemed necessary to further the prosecution of this application is hereby requested. The Commissioner is authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 08-3038, referencing the docket number shown above.

Respectfully submitted,



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